

EXHIBIT E

Case 3:19-cv-00843 Document 272-5 Filed 11/14/22 Page 1 of 4 PageID #: 6334



Joel Smith <jsmith@bursor.com>

Nissan FEB: Mancini and Cole depositions

Cauley, Jr., E. Paul <paul.cauley@faegredrinker.com>

Thu, Sep 9, 2021 at 11:15 AM

To: Joel Smith <jsmith@bursor.com>, "Riehle, Paul J." <paul.riehle@faegredrinker.com>, "Carpenter, Brigid" <bcarpenter@bakerdonelson.com>, "Hickland, Jude T." <jude.hickland@faegredrinker.com>, Clay Barnett <Clay.Barnett@beasleyallen.com>, "Jonathan D. Boggs" <JBoggs@baileyglasser.com>, Ben Gastel <beng@bsjfirm.com>, "John E. Tangren" <jtangren@dicelolevitt.com>, Fred Klorczyk <fklorczyk@bursor.com>, Mitch Williams <Mitch.Williams@beasleyallen.com>

Cc: "Cauley, Jr., E. Paul" <paul.cauley@faegredrinker.com>

Joel:

Thank you for your message.

As to Tom Cole, I can confirm that based on the claims currently asserted in the most recent amended complaint, NNA does not intend to use Tom Cole as a witness to support its claims and defenses. NNA does reserve the right to use Mr. Cole as a rebuttal declarant or witness in the event Plaintiffs make any assertions pertaining specifically to Mr. Cole or his work as an employee for NNA.

Consistent with my prior discussions with you about Leo Mancini, I have been authorized to make the same representation as to him as well - based on the claims currently asserted in the most recent amended complaint, NNA does not intend to use Leo Mancini as a witness to support its claims and defenses. NNA reserves the right to use Mr. Mancini as a rebuttal declarant or witness in the event Plaintiffs make any assertions pertaining specifically to Mr. Mancini or his work as an employee for NNA.

As you know, Mr. Mancini has been retired from NNA for over two years. In light of the above representation, it does not seem we should proceed with his deposition. In the event you do want to proceed, I suspect that NNA and Mr. Mancini will want me to represent him at the deposition and that, in that event, I would be authorized to accept a subpoena for him. However, I do not have that authorization currently. NNA is attempting to contact Mr. Mancini.

Best regards.

epc

E. Paul Cauley, Jr.

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From: Joel Smith <jsmith@bursor.com>

Sent: Friday, September 3, 2021 2:41 PM

To: Cauley, Jr., E. Paul <paul.cauley@faegredrinker.com>; Riehle, Paul J. <paul.riehle@faegredrinker.com>; Carpenter, Brigid <bcarpenter@bakerdonelson.com>; Hickland, Jude T. <jude.hickland@faegredrinker.com>; Clay Barnett <Clay.Barnett@beasleyallen.com>; Jonathan D. Boggs <JBoggs@baileyglasser.com>; Ben Gastel <beng@bsjfirm.com>; John E. Tangren <jtangren@dicelollevitt.com>; Fred Klorczyk <fklorczyk@bursor.com>; Mitch Williams <Mitch.Williams@beasleyallen.com>

Subject: Nissan FEB: Mancini and Cole depositions

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Joel Smith <jsmith@bursor.com>

Nissan FEB: Mancini and Cole depositions

Joel Smith <jsmith@bursor.com>

Fri, Sep 3, 2021 at 3:40 PM

To: "Cauley, Jr., E. Paul" <paul.cauley@faegredrinker.com>, "Riehle, Paul J." <paul.riehle@faegredrinker.com>, "Carpenter, Brigid" <bcarpenter@bakerdonelson.com>, "Hickland, Jude T." <jude.hickland@faegredrinker.com>, Clay Barnett <Clay.Barnett@beasleyallen.com>, "Jonathan D. Boggs" <JBoggs@baileyglasser.com>, Ben Gastel <beng@bsjfirm.com>, "John E. Tangren" <jtangren@dicelolevitt.com>, Fred Klorczyk <fklorczyk@bursor.com>, Mitch Williams <Mitch.Williams@beasleyallen.com>

Paul - following up on our last call, two things:

1) Attached is a deposition notice for Leo Mancini. My understanding from our call was that you're able to accept this depo notice in lieu of a subpoena, but if I misunderstood please let me know. I provisionally set the depo for 9/27 but we can discuss alternative dates if needed. I or others on the plaintiff-side team could probably make any day work between 9/20-9/29.

2) We can withdraw our request for depo dates for Tom Cole if defendants serve amended initial disclosures removing him as a witness disclosed under R26(a)(1)(A)(i). We'll reserve our right to depose him if new information or circumstances come out that warrant his deposition, but the main impetus to depose him was his presence in the initial disclosures. Can you please let me know the defendants' position on this issue?

Regards,

--
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[2021.09.03 Mancini Depo Notice.pdf](#)
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